1946.

File No. O Retail Trade Control and Licensing Order/46

Legal Deptt

A **BRANCH**

Subject:— Opinions under the Bombay Retail Trade Control and Licensing Order 1942

(P) 3/(E)

File No. O Retail Trade Control & Licensing Order/46

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C O N T E N T S.

Legal Department File No.0.Retail Trade Control & Licensing Order/46.

Sr.No.	R.I./O.No.	Subject.	Pages.
		Opinions under the Bombay Retail Trade Control and Licensing Order,1942.	
1.	5902/26-8-46.	Clause 6---- whether the order of the Rationing Officer cancelling the licence for extraneous matter is valid.	1-4

EKR.14/8/

P.A.

I agree.

The facts are stated in para.2 of the above note.

The question for R.L.A's consideration is whether the order of the Rationing Officer, Poona No. R.T.N.X V.F. 111 dated 3-12-45, cancelling the licence of Mr. T.S. Bangad, for the reasons stated in the order is legally valid under clause 6 of the Bombay Retail Trade Control and Licensing Order, 1942.

Clause 3(1) of the Bombay Retail Trade Control and Licensing Order, 1942, provides that no person shall engage in any undertaking which involves the sale, or storage for sale, in retail quantities of any controlled article except under and in accordance with a licence issued in this behalf by an officer authorised by the Provincial Government. Under clause 4, licences issued under the Order shall be in Form A and shall specify -

(a) the controlled articles in which the licensee may deal;

(b) the place or places at which the licensee may carry on the licensed undertaking.

Clause 6 reads thus:-

"No person being the holder of the licence issued under this Order shall contravene any of the conditions mentioned in Form A; and if any such person contravenes any of the said conditions then without prejudice to any other action that may be taken against him, his licence may be cancelled by order of the officer authorised to issue licences under clause 3".

This clause enjoins on the licensee to comply

with the conditions mentioned in licence Form A, and provides that if the licensee contravenes any of the conditions mentioned therein, his licence may be cancelled bythe authority which granted the licence. It is thus evident that the licensing authorityhas no power vested in him to cancel the licence in Form A for anyextraneous matter except those specified in license Form A.

The reasons stated bythe Rationing Officer, Poona, for cancelling the licence are stated thus:-

"He has committed two serious offences, viz:-

(i) Illegal use of ration cards.

(ii) Drawing of rations for absentees.

In view of this, I direct that the licence issued in the name of "Bengad and Coy" for grains ..... should be cancelled under clause 6 of the Bombay Retail Trade Control and Licensing Order, 1942".

As the ground stated in the Order of the R.O., Poona, does not pertain to breach of any of the conditions mentioned in licence Form A, the Order passed byhim cancelling the licence is illegal and is ultra vires clause ~~of~~ 6 of the Bombay Retail Trade Control and Licensing Order, 1942.

Reply may be - "Seen and returned.

The view expressed by the R.S.S.(D) in his note dated 24-6-1946 at p.24 is correct".

Sd/-
5/8

A.A.L.R. I agree. Reply may be as suggested.

Sd/-
6/8

~~RHB.~~

R.L.A

Sd/-

21/8/46.

RHB.
10-7.

Office of the R.L.A.

Seen and returned.

2. The view expressed bythe Director of Civil Supplies (District) in his note dated the 24th June 1946 at page 24 ante is correct.

Sd/-
23/8/46

Remembrancer of Legal Affairs.

U.O.R. to C.S.D.No.5902, dated the 26th August 1946.

P.A. Sd/-
22/8

R.L.A.

A.A.L.R.(before issue) Sd/-
26/8

RHB.
10-7.